



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,005	09/17/2003	Thomas Walker Clarke Fayle	SMAR-018DIV	6607
24353	7590	07/02/2004	EXAMINER	
BOZICEVIC, FIELD & FRANCIS LLP			HOEY, ALISSA L	
200 MIDDLEFIELD RD				
SUITE 200			ART UNIT	
MENLO PARK, CA 94025			PAPER NUMBER	
			3765	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/666,005

**Applicant(s)**

CLARKE FAYLE ET AL.

**Examiner**

Alissa L. Hoey

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 13-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected adjustable hood, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/19/04.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 09/17/03 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because they do not have the current application serial number located thereon. Also, sending in a copy of a PTO-892 (notice of references cited) from another application is not proper format for an information disclosure statement. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Continuing Data***

3. This application is a continuation of Patent 6,654,963, the specification needs to be amended to include this patent number in the cross reference to related applications section of the disclosure.

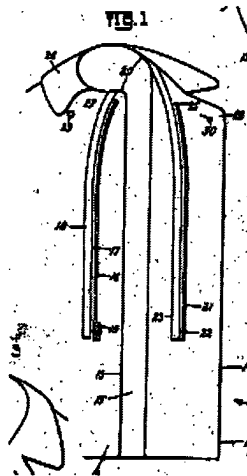
***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Selib (US 2,248,288).



Selib provides a jacket (10) adapted to cover a wearer's chest having a collar (26) adapted to cover the wearer's neck. A front opening (15) of the jacket is closable with a curved slide fastener (16, 17, 21, 22 and 19) that is disposed vertically along the anterior midline of the jacket (10) and curves laterally so that the slide fastener (16, 17, 21, 22 and 19) is offset from the anterior midline of the collar (26) (page 1, column 2, lines 50-53).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selib in view of Norvell (US 5,386,616).

Selib provides a jacket with curved slide fastener as described above in claim 11. However, Selib fails to teach the curved slide fastener coated with a thermoplastic polymer. Norvell provides a slide fastener coated with a thermoplastic polymer (column 4, lines 55-68).

It would have been obvious to have provided the curved fastener of Selib with a coated thermoplastic polymer, since the rain jacket of Selib having a slide faster coated with thermoplastic polymer would create a water resistant fastener so rain doesn't leak though to the wearer beneath the jacket.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Neugebauer, Fletcher, Brohard Jr., Yates, Reynolds, Astrove, Oldham, Rector, Smith, Hillquist, Tusbokawa et al., Schnoor et al., Yoshida, Stames, Hamatani, Chung, O'Donoghue-Kitt, Covington, Jr., Chou, Griffiths, Smith et al., Waldman, Davis, Jones, Ortlieb, Fayle et al. and Neal are all cited to show closely related garments.

Art Unit: 3765

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

alh

  
JOHN CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700